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Federal Forest Resource Coalition

600 New Hampshire Ave., NW Suite 500
Washington, DC 20037

January 27, 2012

Nancy Sutley
Chair, Council on Environmental Quality
The White House
Washington, DC 20500

Dear Chairwoman Sutley:

Thank you for the opportunity to provide comments on the memo released last December entitled "Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act." The Federal Forest Resource Coalition commends you for preparing this document, and for recognizing that NEPA compliance can represent a significant burden on agencies as they seek to carry out their primary missions. FFRC members produce wood, paper, and bioenergy products from wood fiber procured from the National Forests, BLM, and other public and private timberlands. We view our facilities as vitally important to the restoration of forest health on our Federal public lands, and to the economic well-being of our rural communities. With members in more than two dozen states, Coalition members employ over 350,000 workers in over 650 mills, with payroll in excess of \$19 billion.

Our members purchase timber from a variety of ownerships, including State and county lands across the country. In our experience, these lands, which are managed without NEPA requirements, are frequently at least as well managed as Federal lands, if not better. Extensive forest health problems on Forest Service lands are evident from the central Rockies to the West Coast and Great Lakes, yet the Forest Service has conducted exhaustive NEPA analysis, both on forest plans and on individual projects.

In short, compliance with NEPA has, for the Forest Service, become a large factor in what former Chief Dale Bosworth referred to as the "Process Predicament." The Forest Service dedicates substantial resources annually to compliance with the National Environmental Policy Act. When questioned by the House Natural Resources Committee on their annual NEPA expenditures, the Forest Service responded:

To determine the costs of conducting the NEPA process, in 2007 the Forest Service conducted a workload survey... Data was collected on all NEPA work, including activities to comply with other environmental and regulatory laws such as Endangered Species Act and National Historic Preservation Act. The current total costs, including compliance

requirements of other laws, proposal development and appeals, was determined to be approximately \$356 million per year. ⁱⁱ

Given the large and growing forest health problems on the National Forests, this represents a serious misallocation of resources away from resource management. Forest Service research has shown that actively managing forests to reduce fire danger costs between \$600 and \$3,200 per acre, meaning the resources currently devoted to NEPA compliance could support active management on between 111,000 and 590,000 acres annuallyⁱⁱⁱ. This would go a great distance towards improving the health of our National Forests, protecting water quality, and supplying badly needed raw materials to the existing wood products infrastructure.

On October 26, 2011, at a hearing before the House Natural Resources Committee, you responded to a question about delays in needed management on the National Forests because of NEPA, saying “we think NEPA is an important process for understanding environmental impacts of federal actions and don’t think it needs to get in the way of important actions and we will continue to work with the Forest Service on that”. As you note, CEQ regulations state that “NEPA’s purpose is not to generate paperwork – even excellent paperwork – but to foster excellent action.” (memo, p. 2) All too often, however, the Forest Service and CEQ have, by painstakingly following the most rigorous documentation of all conceivable impacts, allowed NEPA to be a paperwork generator, and to use that generation of paperwork to delay, with sometimes catastrophic effects, badly needed actions.

While we applaud you for releasing this memo for public comment, we note that in large part the memo cites existing NEPA guidelines and reiterates the aspects of these which support efficient and timely action on the part of Federal agencies. We strongly concur with the principles laid out in the memo, in particular that “NEPA encourages simple, straightforward, and concise reviews...that are proportionate to relevant considerations in a timely manner.” We also strongly agree that NEPA reviews should “take appropriate advantage of existing documents and studies.” (memo, p. 1) We are pleased to see CEQ note that EA’s should generally be 10 to 15 pages (memo, p. 5), and to note that the length should vary with the scope of potential environmental problems, not merely the geographic scope of a project (memo, p. 6), and to reiterate guidance on incorporation by reference (memo, p. 12).

We believe NEPA guidelines and regulations could be further clarified to emphasize that the goal of NEPA compliance is to gather information “essential for the agency to make a reasoned choice among alternatives.”^{iv} Frequently, courts have decided that to comply with NEPA, the Forest Service must gather all available scientific information on a proposed project area, including determining specific conditions on private lands. This approach has led to the creation of NEPA documents which attempt to provide encyclopedic documentation of all available science, rather than “simple, straightforward, and concise reviews” which you note should be the goal of NEPA. Importantly, the 9th Circuit reversed its longstanding and wrongheaded jurisprudence in this regard in 2010, finding that “none of NEPA’s statutory provisions or regulations requires the Forest Service to affirmatively present every uncertainty in its EIS. ... given that experts in every scientific field routinely disagree; such a requirement might inadvertently prevent the Forest Service from acting due to the burden it would impose.” (Lands Council v. McNair, 537 F.3d 981 (9th Circuit, 2010, en banc). CEQ should work with the agency to give direction to the field to develop only the essential information needed to make a decision, not an encyclopedia of all available science.


Similarly, CEQ has attempted to require analysis of “cumulative effects” of proposed actions. We believe this requirement, found nowhere in the National Environmental Policy Act, leads to a tendency, at least on the part of the Forest Service, to engage in speculative analysis of potential future outcomes, rather than disclosing knowable impacts from proposed actions and impacts from the no-action alternative. Clarification of the cumulative effects analysis to consider direct and indirect effects would help temper this tendency.

Further, we believe the Forest Service spends an inordinate amount of time conducting NEPA on Forest Plans, and then proceeds to reproduce much of the same level of detailed analysis for proposed projects on the same units of the National Forest System. As you note, there are a number of options available which should eliminate this

duplicative work, including “Early NEPA Integration in Planning” (memo, pp. 6 – 8), “Incorporation by Reference” (memo, p. 12), and “Clear Timelines for NEPA Reviews” (memo, p. 13). We believe that reiterating these compliance practices will only be helpful if the CEQ engages with the Forest Service in a concerted effort to streamline NEPA compliance and reduce costs.

Given that the Forest Service spends more on NEPA compliance annually than it does on either the Research and Development or State and Private Forestry deputy areas, we stand ready to work with you to identify further specific actions which the Forest Service can take to reduce its NEPA cost, while still adequately disclosing and analyzing the environmental impacts of its proposed actions. We are encouraged that this memo seems to recognize that NEPA isn’t intended to disclose everything knowable about every conceivable land management practice. We believe an effort to reduce the Forest Service’s NEPA compliance costs will help identify cost savings measures that can help other large Federal land managers (such as the Department of Interior agencies and the Department of Defense) to reduce their costs as well. Moreover, reducing the amount of Forest Service budget dollars currently devoted to NEPA compliance will help extend management across the landscape, improving forest health, reducing wildfire danger, and improving rural economies in the process.

Sincerely,

A handwritten signature in black ink that reads "Howard Hedstrom". The signature is fluid and cursive, with the first name "Howard" and last name "Hedstrom" clearly legible.

Howard Hedstrom
President

Cc: Harris Sherman, Under Secretary, Natural Resources and Environment
Robert Bonnie, USDA
Tom Tidwell, Chief, USDA Forest Service

ⁱ “The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management”, USDA Forest Service, 2002.

ⁱⁱ Questions for the Record: Witness, Associate Chief Mary Wagner; Secure Rural Schools Oversight Hearing, 7/14/2011, Subcommittee on National Parks, Forests, and Public Lands, House Committee on Natural Resources.

ⁱⁱⁱ “Economics of Biomass Removals: Final Report to the Joint Fire Science Program,” Jeffrey P. Prestemon and Karen L. Abt, Forest Service Southern Research Station, May 31, 2006.

^{iv} 40 C.F.R. 1502.22